LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6901 | **NOTE PREPARED:** Feb 24, 2009
BILL NUMBER: HB 1189 | **BILL AMENDED:**

SUBJECT: Biofuel Production Tax Credits.

FIRST AUTHOR: Rep. Pearson | **BILL STATUS:** 2nd Reading - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: This bill provides that the Biodiesel and Ethanol Production Tax Credits must be allocated to the partners, shareholders, or members of a pass through entity in a manner that is consistent with applicable provisions of the Internal Revenue Code. (Current law specifies that the allocation must be made according to the distributive share of income to which the partner, shareholder, or member is entitled.) It provides that a taxpayer may sell, assign, convey, or otherwise transfer a Biodiesel Production Tax Credit or an Ethanol Production Tax Credit. (Current law prohibits the sale, assignment, conveyance, or transfer of the tax credits.)

Effective Date: July 1, 2009.

Explanation of State Expenditures: The Department of State Revenue will incur additional expenses to revise tax forms, instructions, and computer programs as a result of allowing taxpayers to transfer tax credits. The Department's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: *Summary* - This bill would provide for more timely use of credits obtained by taxpayers whose tax liabilities are not sufficient to exhaust the credits in one year. As a result, the bill could potentially lead to a significant short-term increase in the use of tax credits beginning in FY 2010 and FY 2011. The bill would reduce state Adjusted Gross Income (AGI) Tax, Insurance Premiums Tax (IPT), and Financial Institutions Tax (FIT) liabilities of individual and corporate taxpayers that obtain unused tax credits from other individual and corporate taxpayers. Data is unavailable indicating the amount of outstanding tax credits that are not used from year to year. Assuming unused credit amounts would eventually be utilized, this change has no long-run fiscal impact.

The bill allows a taxpayer to transfer sell, assign, convey, or otherwise transfer tax credits to another taxpayer beginning in tax year 2010. A taxpayer may transfer only the tax credit amounts that exceed the taxpayer's tax liability. Tax credits that could be transferred under the bill are the Biodiesel Production Tax Credit and the Ethanol Production Tax Credit.

Revenue from the AGI Tax on individuals and corporations, the FIT, and the IPT is distributed to the state General Fund. Since the bill is effective beginning in tax year 2010, the fiscal impact could potentially begin in FY 2010 if taxpayers adjust their quarterly estimated payments.

Background Information - The total credits available for biodiesel, blended biodiesel and grain ethanol production may not exceed $50 M for all taxpayers each year.

Blended Biodiesel Tax Credit: Taxpayers that produce blended biodiesel (B2 or greater, excluding B100) at a facility in Indiana are eligible for a tax credit that equals $.02 multiplied by the number of gallons of blended biodiesel produced. The total amount of credits allowed may not exceed $3 M for all taxpayers and all taxable years.

Biodiesel Production Tax Credit: Taxpayers that produce biodiesel (B100) at a facility in Indiana are eligible for a tax credit that equals $1 multiplied by the number of gallons of biodiesel produced. The total amount of credits allowed may not exceed $3 M for a taxpayer for all taxable years.

Ethanol Production Tax Credit: Taxpayers that produce ethanol at a facility in Indiana are eligible for a tax credit that equals $.125 multiplied by the number of gallons of ethanol produced. The total amount of credits allowed per taxpayer may not exceed $2M if the taxpayer produces at least 40 M but less than 60 M gallons of grain ethanol in a taxable year. The credit for cellulosic ethanol is limited to $20 M for all taxpayers for all taxable years, if the taxpayer produces at least 20 M gallons of cellulosic ethanol in a taxable year. The $20 M limitation for cellulosic ethanol is not included in the $50 M limitation for biodiesel and ethanol production.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources:

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